

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

SULPICIO LINES, INC.,

Petitioner,

-versus-

**G.R. No. 149930
February 22, 2002**

QUINCIANO GULDE,

Respondent.

X-----X

RESOLUTION

KAPUNAN, J.:

This is a Petition for Review on *Certiorari* filed by Sulpicio Lines, Inc. assailing the Decision, dated February 28, 2001, of the Court of Appeals in CA-G.R. SP No. 51510 which declared the dismissal of respondent Quinciano Gulde illegal. Likewise assailed is the Resolution, dated August 21, 2001, of the appellate court denying petitioner's motion for reconsideration.

As found by the CA, the factual background of the case is as follows:

Petitioner Quinciano Gulde (respondent herein) and one Martin Manatad were employed as truck driver and truck helper of private respondent Sulpicio Lines, Inc. (SLI) (petitioner herein), respectively.

Petitioner Gulde has been in the employ of SLI for thirteen (13) years until his termination from the company on October 9, 1996.

The incident which gave rise to the case at bar happened on September 15, 1996. It started after Gulde and Manapat picked up private respondent SLI's cargoes from Nasipit Port for delivery to its warehouse in Butuan City. It appears that two (2) persons by the name of Doming and Etat boarded their truck while they were in Nasipit. Manapat knew of the same since he was riding at the back of the truck.

In his affidavit, Manatad related that while they were on their way to Butuan, Domeng and Etat slashed open the cargo where the basketballs were loaded. The two (2) were able to cart away four (4) basketballs when they alighted from the truck at the time petitioner Gulde stopped at the house of one Benedicto Cagampang, a checker of SLI at Calao Street, near the Agusan Institute of Technology (AIT), to give to him his medicines. Manapat added that he did not do anything to stop Domeng and Etat for fear for his life because they have weapons.

Manapat further stated that petitioner Gulde was not aware that the two (2) persons boarded their truck. Petitioner Gulde only knew of the same when Manapat told him that Domeng and Etat stole four (4) basketballs. Manapat likewise added that they no longer reported the incident to SLI because one Boy Oco, who has a cargo in their truck and was following them, saw the incident that when Gulde stopped at Calao Street, Oco proceeded to the SLI's warehouse and reported the incident to the warehouseman.

Thereafter, SLI reported the incident to the police and petitioner Gulde and Manapat were investigated. On October 1, 1996, they were further investigated by the SLI's officers and on October 9, 1996, they were dismissed for having been found guilty of connivance with the two pilferers.^[1]

Based on the foregoing facts, the Labor Arbiter ruled in favor of petitioner finding that respondent's dismissal from employment was valid. On appeal, the NLRC initially reversed the decision of the Labor Arbiter. In its decision of April 30, 1998, the NLRC declared that

respondent was illegally dismissed and ordered petitioner to reinstate him. The dispositive portion of the NLRC decision reads:

WHEREFORE, the decision of the Labor Arbiter is hereby VACATED and SET ASIDE. A new decision is rendered declaring the dismissal of complainant Quinciano Gulde, illegal. As a consequence, respondent Sulpicio Lines, Inc. is directed to reinstate complainant to his former position without loss of seniority rights and other privileges. Respondent firm is further directed to pay complainant his full backwages, inclusive of allowance, and other benefits, from the time his compensation was withheld from him up to the time of his actual reinstatement.^[2]

However, when petitioner filed a motion for reconsideration, the NLRC reversed itself as it held that respondent's dismissal was valid for loss of trust and confidence.

Respondent then elevated the case to the Supreme Court but following the pronouncement in *St. Martin Funeral Homes vs. NLRC* (295 SCRA 494 [1998]), the petition was referred to the CA. After consideration of the evidence on record, the CA rendered the assailed decision finding the dismissal of respondent illegal. In effect, the CA reinstated the decision of the NLRC dated April 30, 1998.^[3] Petitioner moved for reconsideration but it was denied for lack of merit.^[4]

Petitioner now comes to this Court alleging in the main that the CA erred in ruling that respondent's dismissal was illegal. Petitioner insists that there was just cause, i.e., loss of trust and confidence, for the termination of respondent's employment. The CA allegedly overlooked certain material facts that would prove that respondent conspired with the thieves in looting four (4) pieces of basketball from petitioner's truck. These facts are allegedly as follows:

Firstly, respondent admitted that two looters have been constant riders on board the truck and in fact known to petitioner (should be respondent) and his truck helper;

Secondly, respondent allowed the two thieves to board his truck from Nasipit Port to Butuan on the date of the pilferage;

Thirdly, respondent deliberately stopped the truck and allowed the two looters to disembark carrying the pilfered cargo with them;

Fourth, petitioner (should be respondent) did not report the pilferage to management despite his knowledge of the incident;

Lastly, when the theft was discovered, it was petitioner (should be respondent) and his helper who knew where the stolen items were stashed and in fact went to the place where they were hidden and retrieved them.^[5]

The petition is bereft of merit.

The basic requisite for dismissal on the ground of loss of trust and confidence is that the employee concerned must be one holding a position of trust and confidence. However, loss of confidence must not be indiscriminately used as a shield by the employer against a claim that the dismissal of an employee was arbitrary.^[6] Loss of confidence as a just cause for termination of employment is premised on the fact that the employee concerned holds a position of responsibility or trust and confidence. He must be invested with confidence on delicate matters, such as custody handling or care and protection of the property and assets of the employer. And, in order to constitute a just cause for dismissal, the act complained of must be work-related and shows that the employee concerned is unfit to continue to work for the employer.^[7]

Further, well-settled is the rule that “for loss of trust and confidence to be a valid ground for dismissal of an employee, it must be substantial and founded on clearly established facts sufficient to warrant the employee’s separation from employment.”^[8]

In this case, contrary to the allegations of petitioner, there is no sufficient evidence to show that respondent conspired with the thieves in stealing four (4) pieces of basketball from petitioner’s truck. As found by the CA:

[I]t can be gleaned that the evidence presented in the case did not clearly prove that petitioner wilfully breach his duty. It was not proven that indeed he connived with the thieves. The same was even commented upon by the NLRC when it said that the allegations that petitioner (respondent herein) knew the thieves were not even found in the police report. (p. 29, Rollo) Additionally, the reason given by the truck helper as to his inaction in preventing the thieves from taking the basketballs is not incredible. His reaction given the situation is not beyond human reaction to similar circumstances. It is a natural reaction to think about one's safety first before the safety of another's property.

Likewise, contrary to petitioner's claim, respondent did not stop the truck to allow the looters to disembark. Rather, respondent made a brief stop at the house of a co-employee in Calao Street near the Agusan Institute of Technology to deliver his medicines.^[9] In fact, as testified by Manapat, respondent's companion, respondent was not aware that the two pilferers boarded the truck and he learned about the theft only when Manapat told him about it.^[10]

In fine, petitioner failed to present sufficient evidence to show that respondent committed acts that would warrant his dismissal for loss of trust and confidence. It is significant to note that respondent had been in petitioner's employ for thirteen (13) years and it has not been shown that during this period he had been guilty of any infraction against petitioner. It is difficult to believe that he would deliberately jeopardize his job for something as worthless as basketballs.

WHEREFORE, premises considered, the instant Petition is hereby **DENIED** for lack of merit.

SO ORDERED.

Davide, Jr., C.J., Puno and Ynares-Santiago, JJ., concur.

[1] Rollo, pp. 30-31.

[2] Id., at 32.

- [3] Id., at 37.
- [4] Id., at 40.
- [5] Id., at 16-17.
- [6] PLDT vs. NLRC 303 SCRA 9 (1999).
- [7] Sanchez vs. NLRC, 312 SCRA 727 (1999).
- [8] Cruz vs. NLRC, 324 SCRA 770 (2000).
- [9] See CA Decision, p. 2; Rollo, p. 30.
- [10] Id.

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